

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 24-045 (ADC)

[9] GADELYS ROSARIO-ALVARADO,

Defendant.

MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION
RE: RULE 11(c)(1)(B) GUILTY PLEA HEARING

I. Procedural Background:

On February 14, 2024, defendant Gadelys Rosario-Alvarado was charged in a multi-defendant and multi-count indictment. (Docket No. 3). She agreed to plead guilty to Count One of said indictment.

Count One charges that that from in or about April 2019 up to and until on or about September of 2022, in the District of Puerto Rico and within the jurisdiction of this Court, Gadelys Rosario-Alvarado, and others, did knowingly and intentionally, combine, conspire, and agree with each other and with diverse other persons known and unknown to the Grand Jury, to commit an offense against the United States, that is, to knowingly and intentionally possess with intent to distribute and distribute five kilograms or more of a mixture or substance containing a detectable amount of cocaine,

1 a Schedule II Narcotic Drug Controlled Substances. All in violation of 21 U.S.C. §§
2 841(a)(1) and (b)(1)(A) and 846.

3 Defendant appeared before me, assisted by the court interpreter, on June 23,
4 2025, after the Rule 11 hearing was referred to me by the Presiding District Judge. *See*
5 *United States v. Woodard*, 387 F.3d 1329 (11th Cir. 2004) (magistrate judge had
6 authority to conduct Rule 11 guilty plea hearing with consent of defendant). She was
7 advised of the purpose of the hearing and placed under oath with instructions that his
8 answers must be truthful lest he subject herself to possible charges of perjury or making
9 a false statement.
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11 **II. Consent to Proceed Before a Magistrate Judge:**
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13 Defendant was provided with a Waiver of Right to Trial by Jury form, which she
14 signed.¹ She was advised of her right to hold all proceedings, including the change of plea
15 hearing, before a district court judge. She received an explanation of the differences
16 between the scope of jurisdiction and functions of a district judge and a magistrate judge.
17 She was informed that if she elected to proceed before me, a magistrate judge, that I
18 would conduct the hearing and prepare a report and recommendation, subject to review
19 and approval of the district judge. The defendant then voluntarily consented to proceed
20 before me.
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26 ¹ The form entitled Consent to Proceed Before a United States Magistrate Judge in a Felony Case for
27 Pleading Guilty (Fed. R. Crim. P. 11) and Waiver of Jury Trial, signed and consented by both parties is
28 made part of the record.

III. Proceedings Under Rule 11 of the Federal Rules of Criminal Procedure:

Rule 11 of the Federal Rules of Criminal Procedure governs the acceptance of guilty pleas to federal criminal violations. Pursuant to Rule 11, in order for a plea of guilty to constitute a valid waiver of the defendant's right to trial, the guilty plea must be knowing and voluntary. *United States v. Hernandez-Wilson*, 186 F.3d 1, 5 (1st Cir. 1999). "Rule 11 was intended to ensure that a defendant who pleads guilty does so with an 'understanding of the nature of the charge and consequences of his plea.'" *United States v. Cotal-Crespo*, 47 F.3d 1, 4 (1st Cir. 1995) (quoting *McCarthy v. United States*, 394 U.S. 459, 467 (1969)). There are three core concerns in a Rule 11 proceeding: 1) absence of coercion; 2) understanding of the charges; and 3) knowledge of the consequences of the guilty plea. *Cotal-Crespo*, 47 F.3d at 4 (citing *United States v. Allard*, 926 F.2d 1237, 1244 (1st Cir. 1991)).

A. Competence to Enter a Guilty Plea

I questioned the defendant about her age, education, employment, history of any treatment for mental illness or addiction, use of any medication, drugs, or alcohol, and her understanding of the purpose of the hearing, all in order to ascertain her capacity to understand, answer and comprehend the change of plea colloquy. I confirmed that the defendant received the indictment and fully discussed the charges with her attorney and was satisfied with the advice and representation he received.

In addition, I further inquired whether defendant's counsel or counsel for the government had any doubt as to her capacity to plead, receiving answers from both that the defendant was competent to enter a plea. After considering the defendant's

1 responses, and observing her demeanor, a finding was made that Ms. Rosario-Alvarado
2 was competent to plead and fully aware of the purpose of the hearing.

3 **B. Maximum Penalties**

4 Upon questioning, the defendant expressed her understanding of the maximum
5 and minimum penalties prescribed by statute as charged in the indictment for the offense
6 to which she was pleading guilty, namely for Count One: a term of imprisonment which
7 shall not less than ten (10) years and up to life, a fine not to exceed ten million dollars
8 (\$10,000,000.00), and a supervised release term of at least five (5) years in addition to
9 any term of incarceration.
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11 However, based on the stipulated and agreed to amount of narcotics possessed by
12 the defendant, that is, at least 3.5 kilograms but less than 5 kilograms of cocaine, the
13 defendant was told and understood that he faces a term of imprisonment of not less than
14 five (5) years and not more than forty (40) years, a fine not to exceed five (5) million
15 dollars (\$5,000,000.00), and a supervised release term of at least four (4) years in
16 addition to any term of incarceration.
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18 The defendant also understood that a Special Monetary Assessment of \$100.00
19 would be imposed, to be deposited in the Crime Victim Fund, pursuant to Title 18, United
20 States Code, Section 3013(a). The court explained the nature of supervised release and
21 the consequences of revocation. The defendant indicated that she understood the
22 maximum and minimum penalties for Count One and the potential consequences of the
23 guilty plea.
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C. Plea Agreement

Ms. Rosario-Alvarado was shown her plea agreement, and the plea agreement supplement, which are part of the record, and identified her initials and signatures. She confirmed that she had the opportunity to read and discuss the plea agreement with her attorney before she signed it, that it represented the entirety of her understanding with the government, that she understood its terms, and that no one had made any other or different promises or assurances to induce her to plead guilty.

The defendant was then admonished, pursuant to Fed. R. Crim. P. 11(c)(1)(B) and expressed her understanding that the terms of the plea agreement are merely recommendations to the court, and that the district judge who will preside over the sentencing hearing can reject the recommendation without permitting the defendant to withdraw her guilty plea, and impose a sentence that is more severe than the defendant might anticipate. The defendant was specifically informed that the court, after considering the applicable Sentencing Guidelines, could impose a sentence different from any estimate in the plea agreement or provided by her attorney, and that the court had the authority to impose a sentence that is more severe or less severe than the sentence called for by the Sentencing Guidelines. The defendant was advised, and understood, that the Sentencing Guidelines are no longer mandatory and are thus considered advisory, and that during sentencing the court will consider the sentencing criteria found at Title 18, United States Code, Section 3553(a).

The defendant was advised that under some circumstances she or the government may have the right to appeal the sentence the court imposes, but that pursuant to the plea agreement the defendant will waive her right to appeal both her sentence and her

1 conviction if the court adopts the plea agreement and sentences her according to its
2 terms and conditions.

3 **D. Waiver of Constitutional Rights**

4 The defendant was specifically advised that she has the right to persist in a plea of
5 not guilty, and if she does so persist that she has the right to a speedy and public trial by
6 jury, or trial before a judge sitting without a jury if the court and the government so agree;
7 that at trial he would be presumed innocent and the government would have to prove
8 her guilt beyond a reasonable doubt; that she would have the right to the assistance of
9 counsel for her defense, and if she could not afford an attorney the court would appoint
10 one to represent her throughout all stages of the proceedings; that at trial she would have
11 the right to hear and cross examine the government's witnesses, the right to decline to
12 testify unless she voluntarily elected to do so, and the right to the issuance of subpoenas
13 or compulsory process to compel the attendance of witnesses to testify. She was further
14 informed that if she decided not to testify or put on evidence at trial, the failure to do so
15 could not be used against her, and that at trial the jury must return a unanimous verdict
16 before she could be found guilty or not guilty.

17 The defendant specifically acknowledged understanding these rights and
18 understanding that by entering a plea of guilty there would be no trial and she will be
19 waiving or giving up the rights I explained.

20 The defendant was informed that parole has been abolished and that any sentence
21 of imprisonment must be served, and that her guilty plea may result in loss of important
22 civil rights, such as the right to vote, to hold public office, to serve on a jury, and to
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1 possess a firearm. The defendant confirmed that she understood these consequences of
2 the guilty plea.

3 **E. Factual Basis for the Guilty Plea**

4 Defendant was read in open court Count One of the indictment and provided an
5 explanation of the elements of the offense. The meaning of terms used in the indictment
6 was also explained.
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8 Upon questioning, the defendant admitted to facts constituting all of the elements
9 of the offense charged in Count One and that the evidence the government had available
10 to establish, in the event defendant elected to go to trial, the defendant's guilt beyond a
11 reasonable doubt.
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13 **F. Voluntariness**

14 The defendant indicated that she was not being forced to plead guilty but was
15 entering such a plea freely and voluntarily because in fact she is guilty, and that no one
16 had threatened her or offered a thing of value in exchange for her plea. She acknowledged
17 that no one had made any different or other promises in exchange for her guilty plea,
18 other than the recommendations set forth in the plea agreement. Throughout the hearing
19 the defendant was able to consult with his attorney.
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21 **IV. Conclusion:**

22 The defendant, by consent, appeared before me pursuant to Rule 11 of the Federal
23 Rules of Criminal Procedure, and entered a plea of guilty as to Count One of the
24 indictment. After cautioning and examining the defendant under oath and in open court
25 concerning each of the subject matters mentioned in Rule 11, I find that the defendant,
26 Gadelys Rosario-Alvarado is competent to enter this guilty plea, is aware of the nature of
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1 the offense charged and the maximum statutory penalties that it carries, understands
2 that the charge is supported by evidence and a basis in fact, has admitted to the elements
3 of the offense, and has done so in an intelligent and voluntary manner with full
4 knowledge of the consequences of her guilty plea. Therefore, I recommend that the court
5 accept the guilty plea and that the defendant be adjudged guilty as to Count One of the
6 indictment.
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8 This report and recommendation is filed pursuant to 28 U.S.C. § 636(b)(1)(B) and
9 Rule 72(d) of the Local Rules of this Court. Any objections to the same must be specific
10 and must be filed with the Clerk of Court **within 14 days**. Failure to file timely and
11 specific objections to the report and recommendation is a waiver of the right to appellate
12 review. *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Davet v. Maccorone*, 973 F.2d 22,
13 30–31 (1st Cir. 1992); *Paterson-Leitch Co. v. Mass. Mun. Wholesale Elec. Co.*, 840 F.2d
14 985 (1st Cir. 1988); *Borden v. Sec’y of Health & Human Servs.*, 836 F.2d 4, 6 (1st Cir.
15 1987).
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17 **IT IS SO RECOMMENDED**
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19 In San Juan, Puerto Rico this 23rd day of June, 2025.

20 S/Héctor L. Ramos-Vega
21 HÉCTOR L. RAMOS-VEGA
22 UNITED STATES MAGISTRATE JUDGE
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